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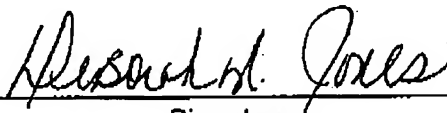
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10/510083

BA9302USPCT - RESPONSE

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Rev. 10/93

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

CHI-PING TSENG

CASE NO.: BA9302USPCT

SERIAL NO.: 10/510083

GROUP ART UNIT: 1616

FILED: APRIL 30, 2003

CONFIRMATION NO.: 4238

EXAMINER: ALTON N. PYROR

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FOR: AMIDINYLPHENYL COMPOUNDS AND THEIR USE AS FUNGICIDES

RESPONSE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is submitted in response to the Office Action dated NOVEMBER 15, 2006.

The Office Action indicated that this application contained claims to more than one species of the generic invention, more particularly (1) compounds of formula I where R2 and R3 together form a saturated heterocyclic ring, or (2) compounds of formula I where R2 and R3 are individually H, "Alk" or cycloalkyl. The Office Action maintained inter alia that original claims 1-10 were open to saturated and unsaturated heterocyclics for R2 and R3 together; and that new claims 11-30 are presented excluding R2 and R3 being unsaturated heterocyclic.

While the species requirement in the Office Action is not entirely clear to Applicant, Applicant elects "species" (2) as indicated above, which Applicant understands to include (as recited in Claim 11) embodiments where R2 is H, C<sub>1</sub>-C<sub>10</sub> alkyl, C<sub>2</sub>-C<sub>10</sub> alkenyl, C<sub>2</sub>-C<sub>10</sub> alkynyl or cyclopropyl; and R3 is H, C<sub>1</sub>-C<sub>10</sub> alkyl, C<sub>2</sub>-C<sub>10</sub> alkenyl, C<sub>2</sub>-C<sub>10</sub> alkynyl or cyclopropyl. All pending claims include compounds within their scope that have R2 and R3 within this scope. If a more specific compound is desired, Applicant selects the compound of Claim 27 where R5 is CF<sub>3</sub>. Applicant identifies claims 11-15, 18, 19 and 21-27 as including this compound within their scope. If an additional compound is desired in light of the suggestion in the prior Office Action of May 19, 2006 that both claims 6 and 7 appeared allowable, Applicant also selects the compound of Claim 30 where R5 is CF<sub>3</sub>. Applicant identifies claims 11-17, 20-24 and 28-30 as including this second compound within their scope.

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Docket No.: BA9302USPCT

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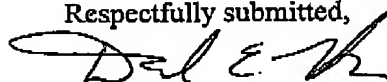
Applicant respectfully requests reconsideration of this requirement. Applicant notes that both saturated rings and the "H, Alk or cycloalkyl" embodiments were included in the earlier examined claims.

In any event, Applicant submits that claims 25 and 28 as now presented, which include embodiments for R2 and R3 being taken together with their interconnection nitrogen to form a heterocyclic ring as more fully detailed in those claims, should remain in this application. Applicant submits that these two claims do not exclude R2 and R3 together being unsaturated heterocyclic. Moreover, Applicant notes that in the Office Action of May 19, 2006 claims 6 and 7 were objected to as being dependent upon a rejected base claim; and that the Office Action of May 19, 2006 suggested that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant notes Claim 25 in connection with original Claim 6. In particular, R<sup>1</sup> is H and R<sup>6</sup> is C<sub>6</sub>-C<sub>15</sub> alkyl wherein at least one of the fourth and fifth carbon from A has one or no hydrogen attached or C<sub>5</sub>-C<sub>15</sub> 2-alkenyl wherein the fourth or fifth carbon from A has one or no hydrogen attached. Applicant also notes Claim 28 in connection with original Claim 7. In particular, R<sup>1</sup> is H and R<sup>6</sup> is C<sub>1</sub>-C<sub>4</sub> alkyl substituted with one or more substituents selected from the group consisting of C<sub>2</sub>-C<sub>6</sub> alkylthio, C<sub>1</sub>-C<sub>6</sub> alkylsulfinyl, C<sub>2</sub>-C<sub>6</sub> alkoxycarbonyl, C<sub>2</sub>-C<sub>8</sub> dialkylamino, C<sub>2</sub>-C<sub>6</sub> alkylcarbonyl, C<sub>3</sub>-C<sub>9</sub> alkoxyalkylcarbonyl, C<sub>2</sub>-C<sub>6</sub> alkylaminocarbonyl, C<sub>3</sub>-C<sub>8</sub> dialkylaminocarbonyl, C<sub>3</sub>-C<sub>9</sub> trialkylsilyl, C<sub>3</sub>-C<sub>9</sub> halotrialkylsilyl, C<sub>4</sub>-C<sub>9</sub> alkoxytrialkylsilyl or C<sub>3</sub>-C<sub>9</sub> trialkylsilyloxy. Accordingly, Applicant submits there would appear to be no serious burden imposed by including in this application claims 25 and 28 as now presented.

Applicant further submits that claims 26 and 27 (which depend from Claim 25) and claims 29 and 30 (which depend from Claim 28) should also remain in the application as currently presented. Applicant notes that in any case R2 and R3 are not taken together with their interconnection nitrogen to form a heterocyclic ring in claims 26, 27, 29 and 30.

In view of the foregoing, reconsideration and allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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Dated: February 15, 2007

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